

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CHASSIDY F. LUCAS, et al.,

Plaintiffs,

v.

JOE CAMACHO, et al.,

Defendants.

CASE NO. C11-5350BHS

ORDER DENYING
DEFENDANTS' MOTIONS TO
DISMISS AND MOTIONS
FOR DEFAULT JUDGMENT

This matter comes before the Court on Defendants George and Lori Parker's ("Parkers") second and third motions to dismiss (Dkts. 89 & 91) and motions for default judgment (Dkts. 97 & 98). The Court has reviewed the briefs filed in support of the motions and the remainder of the file and hereby denies the motions for the reasons stated herein.

I. PROCEDURAL HISTORY

On May 5, 2011, Plaintiffs Chassidy Lucas, Bianca Lucas, and CB Stormwater ("Plaintiffs") filed a complaint against Defendants Joe Camacho, Deborah Camacho, Angela Stephenson, and the Parkers. Dkt. 1. Plaintiffs allege, in part, that they possess a valid patent that is being infringed by the Parkers. *Id.* at 4-7.

On August 18, 2011, the Parkers filed a motion to dismiss and to grant their counterclaim. Dkt. 51. On October 7, 2011, the Court denied the Parkers' motion stating

1 that “the Parkers’ denial of the allegations and additional evidence outside the complaint
2 are insufficient to establish that Plaintiffs’ complaint is subject to dismissal.” Dkt. 76 at 2.
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4 On November 6, 2011, the Parkers filed a second motion to dismiss. Dkt. 89. One
5 week later on November 13, 2011, the Parkers filed a third motion to dismiss. Dkt. 91.
6 Plaintiffs failed to respond to either motion.

7 On December 3, 2011, the Parkers filed a motion for default judgment. Dkt. 97.
8 On December 10, 2011, the Parkers filed another motion for default judgment. Dkt. 98.
9 Plaintiffs failed to respond to either motion.
10

11 II. DISCUSSION

12 A. Motions to Dismiss

13 Motions to dismiss brought under Rule 12(b)(6) of the Federal Rules of Civil
14 Procedure may be based on either the lack of a cognizable legal theory or the absence of
15 sufficient facts alleged under such a theory. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d
16 696, 699 (9th Cir. 1990). Material allegations are taken as admitted and the complaint is
17 construed in the plaintiff’s favor. *Keniston v. Roberts*, 717 F.2d 1295, 1301 (9th Cir.
18 1983). To survive a motion to dismiss, the complaint does not require detailed factual
19 allegations but must provide the grounds for entitlement to relief and not merely a
20 “formulaic recitation” of the elements of a cause of action. *Bell Atlantic Corp. v.*
21 *Twombly*, 127 S. Ct. 1955, 1965 (2007). Plaintiffs must allege “enough facts to state a
22 claim to relief that is plausible on its face.” *Id.* at 1974. When deciding a motion to
23 dismiss, the Court’s consideration is limited to the pleadings. Fed. R. Civ. P. 12(d).

24 In this case, reading the Plaintiffs’ pro se complaint liberally and taking the
25 material allegations as true, Plaintiffs state a plausible claim for patent infringement. The
26 Parkers’ mere denial of the allegations contained in the Complaint does not meet their
27 burden for either motion to dismiss. Moreover, Plaintiffs’ failure to follow the Local
28

1 Rules of Procedure does not support a motion to dismiss at this time. Therefore, the
2 Court denies the Parkers' motions to dismiss.

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4
5 **B. Redaction of Filings**

6 Parkers claim that "Plaintiff has willfully defied Civil Rule 5.2(a)," which governs
7 "Redactions of Filings." Dkt. 90 at 2. Namely, Parkers claim that Plaintiffs submitted an
8 anti-harassment order from Pierce County District Court that identifies by name the
9 Parkers' minor children. *Id.* The Court has no evidence that the failure to redact was
10 "willful," as Parkers allege. Even so, to remedy the prior failure to redact, the Court
11 hereby seals Exhibit F to the Addendum Declaration of Chassidy Lucas in Support of
12 Complaint and Response (Dkt. 77 at 33-35) and orders Plaintiffs to refile the same with
13 the names of the minor children redacted as mandated by Civil Rule 5.2(a).
14

15 **D. Joint Status Report**

16 Parkers also claim that "Plaintiff has failed to follow the guidelines for litigation a
17 Patent lawsuit" under Local Patent Rule B 110, which governs the Joint Status Report.
18 Dkt. 92 at 6. To ensure efficient resolution of the case, the Court encourages all parties to
19 follow guidelines set forth in the civil and court rules. The Court orders that the parties
20 meet and confer to ensure compliance with rules that require joint input, including those
21 governing the submission of the Joint Status Report.

22 **C. Motions for Default Judgment**

23 Parkers claim that they are entitled to an order of default under FRCP 55(a)
24 (Dkts. 97 & 98). But, as the defendants in the matter, FRCP 55(a) does not govern the
25 end result that the Parkers seek in these motions. Instead, to the extent that the Parkers
26 seek to dismiss Plaintiffs' complaint, the Court repeats its finding that the Parkers have
27 failed to meet their burden on these motions.
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III. ORDER

Therefore, it is hereby **ORDERED** that Parkers' second and third motions to dismiss (Dkts. 89 & 91) and motions for default judgment (Dkts. 97 & 98) are **DENIED**.

DATED this 6th day of January, 2012.



BENJAMIN H. SETTLE
United States District Judge